

**U.S. Department of the Interior  
Bureau of Land Management  
Uncompahgre Field Office  
2465 South Townsend Avenue  
Montrose, CO 81401**

## **CATEGORICAL EXCLUSION**

NUMBER: DOI-BLM-CO-S050-2009-0026 CX

CASEFILE: COC- 26997

PROJECT NAME: Renewal of Right-of-Way Grant for an Existing Access Road

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: 6th Principal Meridian,  
T. 13 S., R. 91 W., Sec. 29: Lot 1.

APPLICANT: Bill Hughes

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a renewal of an existing right-of-way grant to Bill Hughes for continued use of an access road to his private property. The road is located approximately 2 miles north of Paonia off Farmers Mine (4100) County Road. The right-of-way was originally authorized in 1979. The right-of-way is approximately 380.8 feet long, 30 feet wide and encumbers approximately 0.262 acres of public land. No surface disturbance is anticipated to occur on the right-of-way, other than routine or necessary maintenance over time.

A compliance inspection was conducted on March 5, 2009. The right-of-way was found to be in use, is still needed by the holder and was in compliance with the terms and conditions of the grant. No issues or concerns were noted and no weed problems were observed during the inspection.

The right-of-way will be re-issued under FLPMA for 30 years with the right of renewal. It will be subject to rent and the attached stipulation (see Exhibit A).

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Number/Page: Management Unit 2, Page 147

Decision Language: MU-2 is managed for wildlife habitat, coal and woodlands. Land uses are permitted if they do not degrade the areas' winter range capabilities.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number: E(9) which allows for renewals of rights-of-way where no additional rights are being granted. None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u>X</u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u>X</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u>X</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u>X</u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u>X</u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u>X</u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u>X</u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u>X</u>
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u>X</u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	<u>X</u>
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u>X</u>
12. Significantly, contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u>X</u>

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Linda Reed	Realty Specialist	Lands and Realty
Glade Hadden	Archaeologist	Cultural Resources
Melissa Siders	Biological Staff Supervisor	TES Species, Wildlife, Migratory Birds

REMARKS:

Cultural Resources: A cultural resources survey and report were done in 1978 prior to authorization of the original right-of-way. No cultural resources were found.

Native American Religious Concerns: None known.

Threatened and Endangered Species: No TES species were found within the area. There would be no effect to any federally listed species or Critical Habitat.

Migratory Birds: No direct effects are expected to migratory birds. If maintenance activities (i.e. blading) take place during the breeding season, some individual breeding birds could be impacted in the short term, but these impacts are not likely to impact populations or result in a trend toward federal listing.

Wildlife: To protect wintering big game (Elk, Mule Deer), no surface disturbing activities will occur between December 1 and April 15.

NAME OF PREPARER: Linda Reed March 6, 2009

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum

DATE: 3/9/09

DECISION AND RATIONALE: I have reviewed this CER and have decided to implement the proposed action.

This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 10 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Barbara Sharrow  
Barbara Sharrow  
Uncompahgre Field Office, Field Manager

DATE SIGNED: 3/11/09

COC-26997 Renewal  
Exhibit A**STIPULATIONS**

1. The holder shall contact the Authorized Officer (AO) at least two weeks prior to the anticipated start of any surface disturbing activities. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated. In any event, prior to any surface disturbing activities, the holder shall comply and demonstrate compliance in writing, i.e., with surveys and inventories completed by qualified individuals, with the following laws including, but not limited to, the Endangered Species Act (if potential habitat is determined to be present), the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. Evaluations and inventories can be completed by BLM, or by the holder in order to meet the holder's schedule and subject to approval by the AO. The holder shall not initiate any surface disturbing activities on the right-of-way without prior written approval as determined necessary by the AO. Contact Linda Reed, BLM Realty Specialist, at (970) 240-5322, or alternate Barney Buria, BLM Environmental Protection Specialist, at (970) 240-5333.
2. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
5. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the

authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

6. The holder shall be responsible for weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations), including pesticides approved for use on BLM land.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
11. The holder shall maintain the road under this right-of-way in order to provide for reasonable access. Road maintenance shall be performed to minimize erosion along the roadway and adjacent land. The road maintenance shall include, but is not limited to road blading, surfacing as necessary, constructing side ditches, and maintenance of culverts. If the holder's scope of use exceeds the road standards defined herein, then the holder shall apply for an amendment to the right-of-way in order to provide for such an upgrade in road standard, as determined by the authorized officer.

12. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment.
13. The holder shall disturb the minimum amount of soils and vegetation necessary for the road construction, operation, or maintenance. The holder shall recontour disturbed areas outside of the right-of-way as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
14. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used as reclamation as natural materials to enhance surface stability and re-vegetation efforts.
15. Construction activity and surface disturbance will be prohibited during the period from December 1<sup>st</sup> to April 15<sup>th</sup> for the protection of elk and mule deer winter range. Any exceptions to this requirement must have prior written approval from the authorized officer.
16. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.